App. F IX-4

1927.

File No. 219-27

Previous References (nil)

Serial Nos. 142

Later References
9 PS- 28689, 90, 91
92, 93, 294

General and Revenue Secretariat.

Serial Nos. 1 to 5

Part B for February 1928

SUBJECT

Leasing out the right of quarrying on the village of Jadeharjanahalli by the Jaidar

2 The Municipal Commissioner Bangalore
L dis 46/D 21-2- 1928
Con unfolumo-hum in her the owner
is to be prosecuted for having been
licence etc

2 Rec'd
11-5-28

General and Revenue Secretariat | Rd File No 219 of 1927

Serial No

Letter No D-1-612/27-28 25.11.27 from the Rent Court, Bangalore City regarding State right of Jodi Ranganath village included within the City Rent Limits has leased out the right of quarrying rock within his village to a certain person named Chota Baba Sahab, that the person did not take out a license from the Mulki, and that the Mulki Council, in the circumstances stated, interfere with the rights of the Jodidar and that it cannot take steps legally to prosecute the party for carrying on his business without a license and solicits instructions thereon as to how to act in matters of this kind

Stone quarrying is not included among the dangerous or offensive trades specified in Section 151 of the Rent Act it is classed as an offensive trade in the sanctioned bye-laws of the Bangalore City Rent Council relating to dangerous and offensive trades It is a point for orders whether the Rent Council may not be informed of this as being obtaining

2 Dangerous Quarrying Cases under Section 126 of the Regn and the Rent Court may under that Section, require by a written notice the owner of that quarry not

NOTE—Contn sheet

WD 0924—GPB—50 000—24-5-27

General and Revenue Secretariat | Rl File No 219 of 1927

Serial No

Conditions as to working of such Quarry or 6- table orders as to such Quarry as the Revl Comm shall direct for preventing danger or abating nuisance arising therefrom

3 If approved the Revl Comr may be informed accordingly the legal Rem may be consulted in the matter if necessary

9/1/27 - KGR

4 Please bring up with a map of the city where is the proposed area

14/1

Are there any rules to regulate stone quarrying in the Malleases in the Revenue Dept - Please bring with copies of orders if any

29/1

7 Please put up copies of GOs on the Irrigation Report and the Irrigation Commission's representation The GO of 1915 has not been traced

KLL

5 The required GOs are put up It is ascertained from the Revenue Branch that the orders of the 15th Feb 1915 has not been modified

15/1/27

NOTE—Contn sheet

nb. ✓

App. F III—2]

General and Revenue Secretariat. | 61 File No 219 of 192)

Serial No

The letter from the Dist Court Bangalore dt— is sent for perusal I have a recollection that the order of 1915 has been modified since and that the Inamdars cannot convert agricultural lands in their villages to non-agricultural purposes except with the sanction of the Revenue Authorities in the order, if any I have not been able to trace. If an Inamdar can convert inamdars without control, there is no remedy in cases like the present case except arguing that Inamdar is agnt to quarry on his village Or all are included within and limits whether belonging to the Mily Govt or an alienated village shd be made subject to the rules & bye laws of the Mily -

Dist
25/1

Chiefs)

CHIEF SECRETARY'S
25 JAN. 1923

The G.O of 1915 merely points out that under Revenue Laws, an Inamdar can appropriate alienated land for non-agricultural purposes without obtaining the permission of Rev Officers and without

NOTE—Contn. sheet

WD 6841—GPB—60,000—24-5-07

App. F III—2]

General and Revenue Secretariat — File No 219 of 1927

Serial No.

concerning any penalty under the Local Rules Code & Rules This does not mean that alienated villages or lands situated within municipal limits are exempted from the operation of Municipal laws and bye laws To the extent these are valid, they apply equally to alienated and unalienated lands The distinction between the two lies in the question of the jurisdictional interest of the respective holders and does not affect their common amenability to municipal and sanitary regulations

In favour of Sanction

Legal Remembrancer with Compliments

Sd/ 2-7-27

I am surprised that a lawyer should give the opinion mentioned by the Commr

I regret to observe that both the Municipal Commr & the Lawyer who has tendered advice on the matter have misconceived the operation of Sections 151 & 152 of the Municipal Act Sec 751 gives power to the Municipal Council to regulate the conduct of those who use the premises for carrying on dangerous or offensive trade & Council cannot issue this licence

NOTE—Contin sheet.

WD 6324—6PB—20,000—24-1-28

General and Revenue Secretariat. File No 29 of 1927

Serial No.

It is the duty of the Council to prevent such nuisance

If after giving notice to the owner or occupier of such place, he to discontinue the use of such place for dangerous or offensive trade, he shall persists in using the place for such purpose, the Council may prosecute him under Sec 152

It is therefore clear that the owner or occupier is held liable for committing nuisance to the neighbourhood, & that the municipal Council is vested with Statutory power to stop such nuisance & that this interference does not depend on the ownership of the premises on which the dangerous or offensive trade is carried on

In the view of the Case the question of acquisition of land right or the power to enforce Sanitary rules does not at all arise

In this connection I may be permitted to point out that the action of the Council in issuing notice under Sec 152 is altogether from the reason that the power as contemplated in Sec 154 & that the Board has to take consultation with the Rep-

NOTE—Contn. sheet.

6

3878 Vol 2

App. F III—2]

General and Revenue Secretariat — File No 219 of 1927

Serial No.	
	The Hon'ble Com'r ought to have proceeded under Sec 126 of the Regn — Chief Sec'y with Compts 6/2/28
	Communicate gist of the above
	Offr Interested
	Note type as usual
	Typed & Embd
	Charles)
2	L 4846 of 6/2/28 We have Com Communicates the above views

CHIEF SECRETARY'S 10 FEB. 1928

B

NOTE—Contn. sheet.

WD 0224—GPB—50,000—24-5-27

No 21 612 ಟಿ 27-28
30 11 27

CITY MUNICIPAL OFFICE
Bangalore City Dated 25th NOVEMBER 1927

DNO 26426 S S
15-12-27

From

T GOVINDA ROW Esq
MUNICIPAL COMMISSIONER CITY MUNCIPALITY
BANGALORE CITY

To

N MADHAVA RAO,Esq, B A ,B L
Chief Secretary to the Governmentof
His Highness the Maharaja of Mysore,
Bangalore

Sir,

ಟಿ 219-27

I have the honor to ~~state~~ that there are certain Inam lands which are included within the City Municipal limits But as the control over them rests entirely in the Inamdars, the Municipal authorities often feel difficulty to enforce rules of sanitation therein A case in point, has now arisen The Jodidar of Jodi Ranganathapur village has leased out the right of quarrying the rock within his village to a certain person named Chota Bada Saheb This person did not take out a license from the Municipality under Section 151 and 152 of the Mysore Municipal Regulation A notice was served on him to show cause why he should not be prosecuted for carrying on this business without a license In reply the Jodidar has submitted a petition to the effect that under Government Order No R 7116-26/L R 217-12-2 dated the 18th -- February 1915, the Municipality cannot interfere with his rights Legal opinion is to the effect that so long as Jodi Ranganathpur is not acquired by the Municipality we cannot interfere with the Inamdar's rights of disposal of the quarry and no prosecution would stand in a Court of law It is impossible to acquire the rights of an Inamdar inMunicipal limits merely for the purpose of

enforcing

enforcing sanitary rules I therefore solicit instructions of Government as to how to proceed in matters like this

I have the honour to be,
Sir,
Your most obedient servant,
Municipal Commissioner

DRR

Forwarded with compliments
President

dl-L 4846 / me219-27-2 9/21-2-28

To

The Municipal Commissioner, B City
Ml. Cl THRO' the Pdt City Ml
Cl. Bangalore.

S i r,

I am directed to acknowledge the - - receipt of your letter No D1 612 of 27-28 dated, the 2 >th November 1927, in regard to the control of the Municipal Council over inam lands situated within the limits of the Municipal Council in the matter of enforcement of Sanitary Rules.

It is stated therein that the Jodidar of Jodi Ranganathpur Village situated within the Municipality who was served with notices to show cause why he should not be prosecuted for failure to take out license for quarying stones under Sections 151 & 152 of the Municipal Regulation has replied ~~to say~~ that the Municipality cannot interfere with the rights vested in him to quarry stones in his village without a license under G.O No R 7116-26/L.R 217-1<-2 dated the 18th February 1925 and that according to the legal opinion obtained by you the Municipal Council cannot interfere with the Inamdar's rights in the matter, that no prosecution would stand in a Court of law and that it is impossible to acquire the right of the Inamdar hereby for the purposes of enforcing Sanitary rules.

In reply I am to state that the

of 1925 merely points out that under the revenue law an inamdar can appropriate -- alienated land for non-agricultural purposes without obtaining the permission of the revenue Officers and without incurring penalty under the Land Revenue Code and Rules and that the order has not got the effect of exempting the inam lands from Municipal Laws and Bye-laws The acquisition of inamdar's right in the quarry does not therefore arise in this case

I am also to state that the scope of the provisions of Sections 151 and 152 has been misunderstood.

Section 151 of the Municipal Regulation gives power to the Municipal Council to regulate the conduct of those who use their premises for carrying on dangerous or offensive trade and commit nuisance to the public It is the duty of the Municipal Council to prevent such nuisance The owner or occupier is held liable for committing nuisance to the neighbourhood & that the Municipal Council is vested with statutory power to stop such nuisance and their interference does not depend on their ownership of the premises on which the -- dangerous or offensive trade is carried on In this view of the case, the question of acquisition of Inamdar's right in the quarry to enforce sanitary rules does not at all arise

If after giving notice to the owrer to

the use of such place for a - -

r offensive purpose he still - -

5

persists in using the place for such purpose, the Council may prosecute him under Section 152

In this case, the action of the Municipal Commissioner in issuing notice under Section 152 is ultravires as --- quarrying is not included in Section 151 and the bye-law prohibiting the same is therefore inconsistent therewith The Municipal Council should have proceeded under Section 176 of the Regulation

I have etc ,

DRAFT)

Chief ry to Govt

15/2

K M.R 1
15/2.